

Amiya Kumar Roy Vs. Debasis Pradhan and Another

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Court : West Bengal State Consumer Disputes Redressal Commission SCDRC
Kolkata

Decided On : Jan-07-2014

Judge : The Honourable Mr. Debasis Bhattacharya, Member & the
Honourable Mr. Jagannath Bag, Member

Appeal No. : S.C. CASE NO: FA of 964 of 2012

Appellant : Amiya Kumar Roy

Respondent : Debasis Pradhan and Another

Judgement :

Sri Debasis Bhattacharya, Member

Being aggrieved by and dissatisfied with the order dated 05.12.2012 passed by the Ld. District Forum, Howrah, in Case No. 38/2012, the OP No.2 thereof has preferred this appeal.

JUDGMENT / ORDER

, the Ld. District Forum has allowed the case on contest against the OP No.1 and dismissed the same against the OP No.2 without costs, and directed the OP No.1 to effect the new electric connection after observing all technical formalities to the Complainants occupied portion at the schedule premises within 30 days from the date of the order. Further, the OP No.2 has been restrained from causing any

disturbance during the process of effecting separate electric connection through the common passage of the Complainant as per schedule premises. However, if there be any resistance by anyone including the OP No.2 against such supply of electricity in the said common passage in the schedule premises, the OP No.1, WBSEDCL Authority shall be at liberty to take necessary assistance or protection from Domjur P.S. The I/C Dmjur P.S. shall be under obligation to provide necessary assistance or protection to the men and officers of the WBSEDCL Authority for providing such supply to the Complainant in case of approach made by the WBSECL Authority.

The case of the Complainant in his petition of complaint is that he purchased one plot of land, measuring 1 Kottah 15 Chittacks and 16 sq. ft., comprising of old Dag No. 3368, old Khatian No. 1595, Mouza-Bankra, P.S. Domjur, District-Howrah, jointly along with his two brothers, namely, Debkumar Pradhan and Debduitta Pradhan by one registered deed vide Book No.1, Volume No.7, Pages 3103-3117, Being No. 02876 of the year 2010 of the District Sub-Registrar, Howrah, and thereafter constructed a residential building thereon and started residing there. Thereafter, he made an application to the OP No.1 for taking electric connection in his premises. After verification, the OP No.1 gave quotation for depositing certain charges, which he deposited. Thereafter, he went to the office of the OP No.1 several times in this connection, but the said OP is avoiding to install electric connection in the premises on one pretext or the other. As such,? he along with the members of his family has been suffering a lot, and for his mother being a patient, electricity is urgently required,? for her comfort. But, the OP No.1 in collusion with the OP No.2 is obstructing to install electric line through the common passage/panchayat passage. Accordingly, the case.

It is the version of the OP No.1 that as access to the Complainants premises was not available and for objection raised by the OP No.2, it failed to effect the service connection.

It is the case of the OP No.2 that he is absolute owner and occupier of the property, measuring about 03 Cottah, 09 sq. ft. comprising in RS Dag No. 3368, Khatian No. 1495, Mouza-Bankra, P.S. Domjur, District-Howrah, by strength of

deed Being No. 2242 of the year 1999 registered before the Addl. Sub-Registrar, Domjur, and he occupies the structures on it and has left side and rear space of 09 ft. width towards the northern side of the property and there exists a 06 ft. width passage and 03 ft. width drain. For encroachment of the said drain and common passage, particularly for starting forcible? digging of soil for making a drain for discharging foul water by one Kumud Ranjan Koley and Mukul Banerjee, the Complainant filed a suit for declaration and injunction before the Ld. 4th Civil Judge, Junior Division, Howrah being Title Suit No. 224/2010 and an order to maintain the status-quo in respect of the possession, nature and character of the said property has been passed. Whereas the Complainant has purchased his property from Smt. Molina Lal, who purchased the same from Indranath Chattopadhyay, who got it by virtue of a registered deed of gift from Sachindranath Chattopadhyay, Being No. 2295 of the year 2000 before the Addl. District Sub-Registrar, Domjur, whose annexed plan is totally separate and different from the deed plan of the Complainant. He lodged written complaint before the OP No.1 on 31.01.2012 against the illegal electric connection and requested not to install the same by encroaching his property. But, the OP No. 1 in collusion with the Complainant has tried to install the same, so he lodged a diary at Bankra O.P. under Domjur P.S. being G.D.E. 50/2012 dated 03.03.2012 and also filed M.P. Case No. 160/2012 before the Ld. Executive Magistrate, 1st Court, Howrah. Accordingly, he? prayed rejection of the complaint.

It is to be considered if the impugned

JUDGMENT / ORDER

suffers from any anomaly for which the same is required to be interfered in this appeal.

Decision with reasons

Ld. Advocate for the Appellant has submitted that the Complainant attempted to take electricity not through the common passage but through the property of the Appellant and the OP No.1 was bent to give such connection to the Complainant. There has been a civil suit in which there is a status quo order. The right of the

Appellant is a paramount one, as he? purchased his property in 1999, whereas the Complainant bought his property only in 2010.

Ld. Advocate for the Respondent No.1 has submitted that a sham dispute has been raised by the OP No.2/Appellant and all the lines and the electricity have gone through the common passage, but only for the insistence of the OP No.2 there has been delay in the matter and after the pronouncement of the impugned judgment, it has been effected by the OP No.2 properly.

Ld. Advocate for the Respondent No.2 has submitted that in compliance with the impugned

JUDGMENT / ORDER

, it supplied electric connection to the Complainant and it has nothing more to contend in the matter.

It is found that the TS No. 224/2010 before the Ld. 4th Civil Judge, Junior Division, Howrah, the Complainant was not a party, and also the ad-interim temporary injunction, as granted therein in favour of this Appellant and his wife being the plaintiffs, vide order dated 22.09.2010, was in the nature of maintaining status quo by both the parties of the suit in respect of possession, nature and character of the suit property. In view of such a position of the civil suit as well as the nature of the interim order, there is no impediment for the Respondent No.1 to take electricity in his premises from the Respondent No.2, and, in fact, the same has already been given effect to by the Respondent No.2 in favour of the Respondent No.1. Further, it is the contention of the Appellant that the Respondent No.1 purchased the property from Smt. Molina Lal, who got the demised property from Indranath Chattopadhyay, who got it by way of a deed of gift from Sachindranath Chattopadhyay. Such deed of gift very much mentions about existence of a common passage of 06 ft. width on the northern side of the purchased property of the Appellant and his wife,? which along with the other common passage connecting the Panchayat Road is to be enjoyed by the said Indranath Chattopadhyay. Accordingly, there is no hurdle in the matter of taking electricity by the Respondent No.1 from the Respondent No.2. Furthermore, it is the specific

case of the Appellant in his W.V. that some Kumud Ranjan Koley and Mukul Banerjee have encroached his property, for which he was compelled to file a suit TS No. 224/2010 in the Ld. Court of 4th Civil Judge, Junior Division, Howrah. Otherwise also, there is found to have no kind of anomaly in the findings and the corollary decision of the Ld. District Forum. Accordingly, the same is sustainable.

In the result, the appeal fails.

Hence,

ORDER

that the appeal be and the same is dismissed on contest against the Respondents but without any cost. The impugned

JUDGMENT / ORDER

is hereby affirmed.

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